

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Christine C. Quinn  
Speaker of the Council

Hon. Maria del Carmen Arroyo  
Chair, Committee on Health



## Hearing on the Fiscal 2014 Preliminary Budget & the Fiscal 2013 Preliminary Mayor's Management Report

Office of the Chief Medical Examiner

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## Office of Chief Medical Examiner Overview

The Office of Chief Medical Examiner (OCME) is responsible for investigating deaths resulting from criminal violence, accident or suicide; that occur suddenly, when in apparent good health; when unattended by a physician; in custody; or occurring in any suspicious or unusual manner. The Office also investigates deaths where an application for cremation is made. The Office provides additional forensic services, including DNA testing, to support criminal investigations. The Office also manages all functions of the City mortuary, including the retrieval and processing of deceased bodies; assistance with autopsies; and body preparation for City burial. Structurally, the OCME is housed within the Department of Health and Mental Hygiene (DOHMH).

This report provides a review of the Fiscal 2014 Preliminary Budget for the OCME. The first section presents a financial summary, including the highlights of the Fiscal 2014 Preliminary Budget and the 2013 Preliminary Mayor's Management Report. Next, this report discusses proposed funding shifts and reductions and relevant Capital projects.

### OCME Financial Summary

<i>Dollars in Thousands</i>	2012 Actual	2013 Adopted	2013 Prelim. Plan	2014 Prelim. Plan	*Difference 2013 - 2014
<b>Spending</b>					
Personal Services	\$43,906	\$42,761	\$46,093	\$42,255	(\$506)
Other Than Personal Services	17,043	19,395	26,903	15,318	(4,076)
<b>TOTAL</b>	<b>\$60,949</b>	<b>\$62,156</b>	<b>\$72,996</b>	<b>\$57,574</b>	<b>(\$4,582)</b>
<b>Funding</b>					
City Funds		\$57,759	\$57,983	\$57,200	(\$558)
Federal – CD		0	0	0	0
Federal- Other		4,392	13,233	368	(4,024)
Intra City		0	0	0	0
Other Categorical		0	58	0	0
State		5	1,722	5	0
<b>TOTAL</b>	<b>\$60,949</b>	<b>\$62,156</b>	<b>\$72,996</b>	<b>\$57,574</b>	<b>(\$4,582)</b>
<b>Headcount (full-time salaried, civilian)</b>	582	618	622	619	1

\*The difference of Fiscal 2013 Adopted compared to Fiscal 2014 Preliminary Plan Funding.

The Fiscal 2014 OCME Preliminary Budget reflects a \$4.6 million decrease when compared to the budget at adoption. This decrease is mostly attributed to the City's Program to Eliminate the Gap (commonly referred to as a PEG or PEG program) for OCME, which totals approximately \$800,000 in reduced City spending for Fiscal 2014. This loss in City funds is partially offset by an increase in federal grants and other minor adjustments.

Within the larger context of the DOHMH budget, OCME funding comprises slightly less than four percent of the \$1.5 billion DOHMH Fiscal 2014 Preliminary Budget. The medical examiner's full-time staff of 619 budgeted positions represents nearly 14 percent of the DOHMH's total Fiscal 2014 proposed headcount.

Over the past few years, the OCME has sought to diversify its funding portfolio and better protect itself against future cuts in City and State funding by aggressively pursuing federal grants and other outside funding opportunities. These efforts, briefly illustrated in the chart on the previous page, have already begun to play a crucial role in helping the OCME to maintain its headcount while it still attempts to meet its PEG targets.

As implied in the Office Overview, the OCME performs two main functions – forensic pathology (identifying cause of death and related services) and forensic biology (DNA testing). OCME is given a mandate by the State to function as the City’s mortuary and is responsible for performing all tasks related to that role – mainly, forensic pathology. In 2007, the City expanded the OCME’s testing portfolio (and consequently, caseload) from testing homicides and sexual assaults to also include testing for all property crimes, attempted homicides and felony assaults.

In early January 2013, the New York Times reported the possibility of mishandling of DNA evidence in over 800 rape cases by the OCME. These cases were reportedly handled by one laboratory technician from 2001 to 2011. The OCME has stated that the technician was not responsible for DNA analysis itself. A more detailed look at the ***DNA Evidence Concern*** can be found on page 5.

## Fiscal 2014 Preliminary Plan Actions

- **Funding for WTC Sifting Operation.** The Department proposes increased spending of \$537,000 in City funds in Fiscal 2014 for another sifting operation at the World Trade Center. Since the last sifting operation in 2010, OCME has accumulated enough material for another comprehensive sifting operation for potential human remains.
- **OPTS Reductions.** The Department projects a savings of \$249,000 in City funds in Fiscal 2014 by maximizing grant revenue and realigning budget to spend agency-wide.
- **OTPS Efficiencies.** The Department projects a savings of \$361,000 in City funds in Fiscal 2014 by realigning its facilities budget based on expenditures. The agency has reforecast its budgets for various programmatic and administrative supplies and contracts.
- **IT Reductions.** The Department projects a savings of \$163,000 in City funds in Fiscal 2014 through IT reductions. The IT department will eliminate consultant contracts for under-utilized applications and reduce wireless spending based on analysis of actual need.

## Financial Analysis

Like so many other City agencies over the past few years, the OCME has undergone numerous PEG programs. Below is a summary of the OCME's PEG programs, starting with the November Plan for Fiscal 2012.

### OCME PEG History (Fiscal 2012-2014)

PEG Program/Target/Description	<i>(in 000s)</i>					
	HC	FY12	HC	FY13	HC	FY14
<u>November Plan – Fiscal 2012 (OCME - 6%, DOHMH 6%)</u>						
Attrition and Vacancy Reductions	(17)	(\$972)	(48)	(\$2,454)	(47)	(\$2,628)
Layoffs	(6)	(222)	(13)	(951)	(13)	(951)
Grant Shifts	--	--	--	(91)	--	--
Overtime Reduction	--	--	--	(168)	--	(168)
OTPS Reductions	--	(26)	--	(301)	--	(234)
Training Reduction	--	--	--	(10)	--	(10)
<b>Subtotal, November 2011</b>	<b>(23)</b>	<b>(\$1,220)</b>	<b>(61)</b>	<b>(\$3,975)</b>	<b>(60)</b>	<b>(\$3,991)</b>
<u>Preliminary Plan – Fiscal 2012 (OCME - 8%, DOHMH 8%)</u>						
OCME - Council Restoration	13	\$730	--	--	--	--
<b>Subtotal, February 2012</b>	<b>13</b>	<b>\$730</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<u>Executive Plan – Fiscal 2012 (OCME - 8%, DOHMH 8%)</u>						
Attrition & Vacancy Reductions Restoration	N/A	N/A	48	\$2,454	48	\$2,628
<b>Subtotal, May 2012</b>	<b>0</b>	<b>0</b>	<b>48</b>	<b>\$2,454</b>	<b>48</b>	<b>\$2,628</b>
<u>November Plan - Fiscal 2013 (OCME - 4%, DOHMH 8%)</u>						
OTPS Reductions	N/A	N/A	--	(\$269)	--	(\$249)
IT Reductions	N/A	N/A	--	(44)	--	(163)
Fringe Revenue	N/A	N/A	--	(61)	--	(61)
OTPS Efficiencies	N/A	N/A	--	--	--	(361)
<b>Subtotal, November 2012</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(\$374)</b>	<b>0</b>	<b>(\$834)</b>
<b>TOTAL</b>	<b>(10)</b>	<b>(\$490)</b>	<b>(13)</b>	<b>(\$1,895)</b>	<b>(12)</b>	<b>(\$2,197)</b>

Most recently, the OCME experienced several cuts that were partially restored by the Council and the Administration. In past cycles, the OCME was able to mitigate these cuts by acquiring more staff via grant funding and pursuing internal efficiencies (streamlining operations where possible). OCME's headcount will remain steady going into Fiscal 2014.

## Performance Measures

	FY 10 Actual	FY 11 Actual	FY 12 Actual	Target FY 13	4-Month Actual FY 13
Median time for MLI scene arrivals (hours)	1.6	1.7	1.8	*	1.8
Median time to complete autopsy reports (days)	53.5	61.5	69.5	51.0	68.0
Median time to process cremation requests (hours)	1.2	1.2	1.3	1.5	1.4
Median time to complete toxicology cases (days)	35.0	40.5	60.0	28.0	66.0
Median time to complete toxicology sexual assault cases (days)	17.0	21.0	30.5	17.0	38.0
Median time to complete toxicology DUI cases (days)	13.0	16.0	15.0	10.0	18.0
Median days to complete analysis of a DNA case	76.0	83.0	88.0	75.0	109.0
Median time to complete DNA homicide cases, from evidence submission to report (days)	112.0	114.0	111.0	90.0	156.0
Median time to complete DNA property crime cases, from evidence submission to report (days)	58.0	65.0	68.0	70.0	86.0
Median time to complete DNA sexual assault cases, from evidence submission to report (days)	19.0	27.0	46.0	50.0	63.0
DNA matches with profiles in database	1,264	1,629	1,791	*	533

In the first four months of the year, OCME has performed well in achieving its goal in light of the constraints imposed by economic pressures. The exceptions were in turnaround time for toxicology reports and some areas of DNA services, the latter attributable to attrition and lengthy recruitment and training periods for new hires.

Forensic Biology, working with OCME Human Resources, OCME Legal, and the Law Department, initiated an effort to reduce attrition of newly trained entry level criminalists at OCME.

In 2000, the OCME was given a mandate to test all rape cases, starting with a backlog of 17,000 kits dating back to 1991 (known as the Rape Kit Backlog Project). By 2003, all kits were tested, resulting in numerous arrests and convictions. Unfortunately, with a new backlog now emerging, the OCME is already beginning to see a reversal in the tremendous progress it had made. From Fiscal 2010 through Fiscal 2012, the median time to complete DNA sexual assault cases increased by an astonishing 142 percent. When measuring change since Fiscal 2010 against the Fiscal 2012, the overall turnaround time for these cases has experienced a nearly two-fold increase.

Other noteworthy delays from Fiscal 2010 through Fiscal 2012:

- Median time to complete DNA homicide cases, from evidence submission to report, has increased by 17.2 percent;
- DNA matches with profiles in the database has risen by 41.7 percent;
- Median time for death scene arrivals has increased by 12.5 percent;
- Median time to complete autopsy reports have increased by 30 percent;
- Median time to complete toxicology sexual assault cases (days) has gone up by 79 percent.



## DNA Evidence Concern

On January 10, 2013, the New York Times published an article uncovering the possible mishandling of DNA evidence in over 800 rape cases by the OCME. These cases were reportedly handled by one laboratory technician from 2001 to 2011, who was charged with processing rape kits that were then analyzed by more experienced lab workers. According to a February 7, 2013 letter the OCME sent to its accrediting body, 858 cases have been reviewed, and the OCME is awaiting the retrieval of evidence from the New York Police Department for an additional 19 cases.

This review revealed 50 sexual assault cases with documentation errors and 37 cases in which re-examination led to a positive result for biological stains when the technician had reported a negative result or false negative—meaning the technician failed to detect biological evidence when some actually existed. Of the 37 false negative results, nine contained DNA profiles which were eligible for uploading onto a federal DNA database system, of which two matched a known suspect and two provided a match that resulted in an investigative lead. News reports indicate that in one of these cases, the technician missed biological evidence and the newly discovered DNA profile matched a DNA sample that the accused gave in an unrelated 2005 robbery case. The technician was placed on administrative leave in June 2011 and quit in July 2011 after OCME moved to terminate her. As revealed during the Council’s oversight hearing on this incident on February 15<sup>th</sup>, the OCME has implemented a series of corrective actions that include review of all management and administrative practices, termination of supervisory staff involved and assembly of a management evaluation team of outside consultants that can provide best practices in management, administrative and operational procedures.

While the OCME’s headcount will remain steady going into Fiscal 2014, it has been subject to reductions in DNA personnel in recent budget cycles. The Fiscal 2013 Executive Budget fully restored the \$2.5 million 2011 November Plan PEG to the OCME’s budgeted vacant and attrited headcount. This restoration enabled the OCME to hire up to 30 new staff, 23 which were criminalists – staff dedicated to DNA testing. In the absence of funding for these 30 positions, the OCME would have been forced to scale back its DNA testing responsibilities, including eliminating automatic submissions for certain crime categories (e.g., sexual assault kit, felony assault kit) and eliminating DNA testing on misdemeanor crimes and vehicle theft. However, as this incident and the Preliminary Mayor’s Management Report highlights, these restorations have done little to reverse the backlog emerging and the performance and training for criminalists.

## Capital Program

### Superstorm Sandy Related Projects

The Preliminary Capital Commitment Plan added \$3.1 million to the Department of Health and Mental Hygiene for projects related to the storm. These include \$500,000 for the replacement of damaged IT Equipment at the Office of Chief Medical Examiner. Sandy capital funding is currently forecast in the Preliminary Capital Commitment Plan as City funds. These funds will be treated as grant funds by the City and the commitments will be transferred to a Federal Non-City budget code as they are spent.